OVERNMENT OF MADRAS

Reference (1952) Department.

~~Endorsement~~

~~Memorandum~~

~~Lodged~~

45724 A/52-2

FOR MYSORE STATE

MINISTER FOR LAND R...
4 - JUL 1952

ADDITIONAL ASST. SECRETARY
5 JUL 1952
45724 M.
REVENUE DEPARTMENT

D. Secy Rev

Rev M/7

M (2-R)

Pp 2-6 unfor.

4 JUL 1952
REVENUE DEPARTMENT

From

Akki Gangamma,
Mistress,
Board Elementary School,
Huvinahadagali. (Bellary District).

To

The Hon'ble Minister for Revenue,
Government of Madras,
Fort St. George,
MADRAS.

Honoured Sir,

About 5 or 6 months back I submitted a petition a copy of which is herein enclosed to the then Revenue Minister for revising the orders of the Revenue Board and the Collector of Bellary. Till now I have not received any reply.

I request you, Honoured Sir, to revise their illegal and unjust order and do justice to me, a poor and helpless woman.

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Petitioner

To

The Hon'ble Minister for Revenue,

Madras State, M A D R A S.

Revision Petition against the order of the Board of Revenue, Madras, X Rt.No. 5033 dated 25-7-51.

Subject:- Land (Bellary) Hadagali Taluk and Town - S.No.118F - Village site Poramboke - Encroachment by Chatriki Basappa

Honoured Sir,

The petitioner Akki Gangamma, wife of Gurubasappa, aged 52, Veerasaiva, School mistress, resident of Huvinahadagali, Bellary District most humbly and respectfully begs to state as follows against X the order of the Board of Revenue, Madras, Rt. No.5033 dated 25-7-51:-

1. That she applied to the Collector of Bellary on 11-1-50 and to the Sub Collector, Hospet on 24-4-50 to assign to her the schedule-mentioned village open site adjoining her house Door No.326 situate in the VII Ward of Panchayat Board of Mt Huvinahadagali and complained that her neighbour Chatriki Basappa, owner of Door No.325 of the same ward, had enclosed the open site with bamboo fencing and infringed her easementary rights.

2. That the Collector forwarded her application to the Sub Collector for action. The sub Collector was pleased to inspect the site and its surroundings. He held that the site belonged to the Government in L.Dis.3353/50G d/ 6-5-50 ordered the said Basappa to remove the bamboo fencing and vacate the site.

3. That she learns that the said Basappa appealed to the Collector of Bellary against the said order of the

Sub Collector and that the Collector held in his D Dis. 14101/50 A 3 d/ 13-3-51 that the site belongs to the said Basappa. ₹37-38 Vol ⑤

4. That the order of the Collector is arbitrary, unwarranted by facts, unjust and illegal and irregular and is vitiated by fraud and misrepresentation on the part of the said Basappa.

5. That the petitioner submits that the said order is liable to be set aside for the following reasons:-

(i) the petitioner was not made a respondent to the appeal which was filed against the order of the Sub Collector on her application for assignment of the site. She was not given notice of the appeal. Nor was she heard in the matter. The Collect... passed his order without any enquiry and without giving an opportunity to the petitioner to disprove the title of Basappa to the site.

(ii) Basappa ... documents disprove his claim to the site. The petitioner has filed O.S.178/50 on the file of the District Munsif Court, Hospet, against Basappa, to establish her easementary rights pertaining to the site.

In para 4 of his written statement in the suit the said Basappa states as follows:

"It (meaning the site in ... is a private site. In any event his title thereto has been perfected by adverse possession for more than the statutory period.

The house item 2 of the plaint schedule (meaning his house) and the open space in front of the same, originally belonged to G.M.P. Nemappa and Sankrappa. They sold the same to K.S.Uddanappa on 29-11-1897 by a registered sale-deed. The sale-deed states not only the

the said house but also the vacant space of 10 cubits. Hemappa and Sankrappa had previously mortgaged the same properties in favour of the vendees on 6-8-1892."

But the deed of 1892 mentions only the house and no vacant space as having been mortgaged and even the sale-deed of 1897 mentions only a space of 10 cubits in front of the house.

So it is inconceivable how the Collector came to the conclusion that the whole site measuring 31 cubits by 14 cubits belongs to Basappa. He has greivously erred if he has based his order on the gift-deed dated 3-5-1943 in favour of Basappa which is of quite recent date.

(iii) Even the claim under the sale-deed of 1897 of Basappa and his predecessors-in-title to the space of 10 cubits cannot stand as they had not enjoyed it for over 60 years by the date of the order of the Sub Collector on 6-5-50. Hence it is quite clear that Basappa has not perfected his title by adverse possession to the 10 cubits space and much less to the whole site.

(iv) The existence of a stone called the Linga-mudri Kallu embedded in the earth within a few feet of Basappa's house, which is worshipped by the Poojari of Ramaswami Temple before the Car Festival on Chaitra Suddha 15 every year.

(v) The existence of a sink-pit which receives water from the bath-room of the petitioner and windows and water spouts which discharge the petitioner's roof-water into the open space since the construction of her house about a 100 years ago. The Sub Collector refers to the sink-pit in his order.

(vi) The Sub Collector holds that the site belongs to Government while the Collector holds that it belongs to Basappa. The above circumstances clearly support the

decision of the Sub Collector. By the order of the Collector the State loses a very valuable site.

(vii) The order is vitiated by fraud and misrepresentation on the part of the said Basappa. He played fraud and misrepresented to the Collector that he and his predecessors-in-title had enjoyed the plot for over 60 years and suppressed the most important document of 1892.

6. The petitioner appealed to the Board of Revenue against the said order of the Collector on 12-4-51. The Board rejected her petition on 25-7-51.

7. The order of the Board is irregular and illegal as it was passed without hearing her counsel. The order is bad in law for the reasons narrated in para 5 supra.

8. The petitioner is aggrieved by the Board's orde for two reasons:-

(i) that she lost the valuable right of opening doors and enlarging her present small windows in the eastern wall of her house, and

(ii) that the State lost a valuable property. She, as a citizen, is interested in the preservation of state property.

9. She, therefore, most humbly and respectfully prays that you may be pleased

(i) to revise the order of Board of Revenue and hold that the site in question belongs to the Government

or

(ii) to direct the Board of Revenue and the Collector to reopen the appeals, to hear the Counsel of the petition and pass fresh orders.

measuring 31 cubits by 14 cubits in front of Door No.325 belonging to Chatriki Basappa, situate in Ward No.7 Panchayat Board of Huvinahadagali, within the Sub Registration District of Huvinahadagali and Registration District of Bellary.

Rec. Appl

Encroachment - Land - (Bellary) Hadagali T and Town. S.No 118/F - Village Site Poramboke - Occupation by one Lakshmiki Basappa - by construction of house - declaration as Private site by collector. Objection -

Memo No 45724 A/52-1 dt 23.7.52

Land - (Bellary) - Hadagali Tk and Town - S No 118 F - Village site - Occupation by Sri Lebatniki Basappa - Declared as Private site - Objection - Petition to evict. Report called

From Srimathi Akki Ranganna petition dt 1 7 52

A copy of the petition cited together with its enclosure is forwarded to the Collector of Bellary for report with the connected records through the Bd. of Revenue, with particular reference to para of the petition.

From

Sri D.R.Sundaram, I.A.S.
Collector, Bellary.

To

The Secretary to Government
Revenue Department, Fort St. George
Madras.

Thro'

The Secretary Board of Revenue,
Chepauk, Madras.

Sir,

Sub:- Assignment - H.S. (Bellary district) Hadagalli Taluk and Town - Site in S.No.117/F -Village site poramboke Declared as private site - Appeal petition of Gangamma (Smt.A) --Report submitted.

Ref. Govt.Memo.No.45724-A/52-1 dre Rev. dated 4.7.52.
(2) Board's Proceedings Rt.No.5033/25.7.51.

Srimati Akki Gangamma, a resident of Hadagalli has preferred an appeal before the Government against the orders of the Board of Revenue proceedings Rt.No.5033/25.7.51. All the contentions of the appellant were already considered adequately by the Board at the time of rejecting her appeal petition made against the orders of the Collector passed in this office D.Dis.No.1A101/50 A3 dated 13.3.51.

Copy/to the Secretary to Government Rev.Dept. Fort St. George
Madras

Revenue Department
Subject

Assignment- House site (Bellary) Hadagalli taluk and town S.No.118/F village - site poramboke - occupation by Sri Chatriki Basappa Declaration as private site- objection report submitted.

Station : Madras Ref.B. 6770/52.2 dated 25.9.52.

From

Sri A.F.Mascarenhas, I.A.S., Secretary, Board of Revenue.
Sri S.A.Venkataraman, I.C.S., Commissioner of Land Revenue

Read: Govt.memo No.45724.... Dated 23.7.1952.
Bellary Collector's Rc.No.12424/52 A3 dated 6.9.52.

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READ AGAIN:---

Govt.memo No.45724 A52.1 Rev.dated 23.7.52.
Board's proceedings Rt.5033/Dated 25.7.51.

Srimati Akki Gangamma, a resident of Hadagalli has preferred an appeal before the Government against the orders of the Board of Revenue proceedings Rt.5033/Dated 25.7.51. All the contentions of the appellant were already considered adequately by the Board at the time of rejecting her appeal petition made against the orders of the Collector passed in this office D.Dis.14101/50 A3 dated 13.3.51.

I have therefore no further remarks to add. The following connected records are herewith submitted for perusal and return.

1. This office D.Dis.14101/50 A3 dated 13.3.51.
2. This office D.Dis. 9705/51 A3 dated 3.8.51.

==

REFERENCE:-

Submitted to the Government.

2. The petition to the Government contains no fresh grounds and the Board has no remarks to offer . B.P.Rt.5033 dated 26.7.51 in which the matter was disposed of by the Board is submitted along with the Collector's file

Rev. Dept

Issued 8.11.52

Memo No 45724 A/52-2 dated 8.11.52

Land - (Bellary) - Hadagalli TK and Town - S No 118/E - Occupation by Sri Lohatriki Basappa - Declared as private site - ~~Rejection~~ petition to Govt

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From Srimathi Akki Rangamma petition dated 1.7.52
Govt. Memo No 45724 A/52-1 Revenue dated 23.7.52
From the Bd. of Rev. Ref. B. 6770/52-2 dated 25.9.52

—

The Govt. decline to interfere in the matter
The petition is rejected.

3/11/52

Issue 19.10.52

Village Occupation by Sri Lehatniki
Basappa declared as private site. Petition to Govt.

pp 1-4 cf From Srimathi Venkatramamma petition dt 1.7.52

The Govt. decline to interfere in the ma
The petition is rejected
14.7.52
16.7.52
18/7/52
19/7

Note Please see the cf.

2 The previous petition referred to on p 1 cf does not seem to have been received in this Dept
The facts of the case are set out briefly in paras 1 to on pp 2-3 cf The petitioner's contention is that the land in S No 118 F of Hadagali Town now under the occupation of one Sri Lehatniki Basappa is Govt. land It is seen that the Collector has held that the land belongs to the occupant himself The Bd. of Revenue also seems to have agreed with the Collector and rejected the petition from Srimathi Venkatramamma She has therefore now come up to the Govt against the orders of the Bd of Revenue. As the Bd of Revenue seems to have gone into the details of this case, it does not seem necessary to call for any report in the matter. It is therefore for orders whether the petition may be rejected Subject to orders the draft memo above is for approval
Neelakantaraman

Please see the notes on plaints and orders of Secretary at the bottom of plaints

2 A draft memo to the collector of Bellary is submitted for approval.

7.52

23/7/52

7.52

[Issued as Memo No 45724 A/52-1 Revenue A]
[From the collector of Bellary Re 12424/52 A] 6.9.52]

To A.S.

Please see the notes from plaints, memo on p 8 cf and the Bellary collector's letter on p 9

2 The collector has submitted the re and the records through the Bd. of Revenue. The Bds on the collector's report may be awaited till

9.9.52

11/9/52

9.9.52

[From the Bd. of Rev Ref. B 6770/52-2 Dt. 25.9.52
To A.S.

Please see the notes from plaints and Bds reference on p 10 cf.

2 The case relates to the petition fro Srimatthi Akki Ekangeamma of Haldagalli, Bellary Dt. against the orders of the Bd. of Revenue declining to interfere with the orders of the collector of Bellary the has declared that the site in S.No 118/F of H Town is the private site of one Sri L.B. Basapp The plot under dispute is a piece of vacant land measuring 31 cubits x 14 cubits lying in front of the house of Sri Basappa and by the side of the petitioners hou on Jan. 50 she applied for its assignment. Sri Bas objected to the assignment of the site to the petitioners on

the ground that the site is his private property. The Sub-Collector Hospet, who inspected the land held that the site was not a private one for the reasons that mere production of a gift deed was not absolute proof of his ownership and that there was a sink pit which disproved Sri Basappa's claim. He held the occupation as objectionable as the site envelops two windows of the petitioner's house. Against the Sub Collector order Sri Basappa preferred a revision petition before the Collector. The Collector personally inspected the site on 15.2.51 After local enquiry and perusal of the documents produced by Sri Basappa the Collector came to the conclusion that the site is the private property of Sri Basappa. The points that led to his decision seem to be

(1) that the site has been in the possession and enjoyment of Sri Basappa and his predecessors for a long time.

(2) that the occupation was not looked as an encroachment prior to the decision of the Sub-Collector and

(3) that the sink pit was not in use.

Against the Collector's order, Sri Venkatha Ramanna preferred a revision petition to the Bd. of Rev. The Bd. examined the case in detail and considered that the proper course to the petitioner was to seek remedy in a Court of Law. Since she had already filed a suit in the Dt. Munsif's Court Hospet to establish her easementary rights pertaining to the site, the Bd. saw no reason to interfere on behalf of the petitioner and accordingly rejected her petition. The Bd. has stated that the petition to Govt does not contain any fresh grounds. Further as the suit filed by the petitioner seems to be still pending before the Dt. Munsif Hospet, there seems to be no case for interference on behalf of the petitioner. It is therefore for orders whether the petition may be rejected. Subject to orders a draft memo is submitted for approval.

Veeraraman
22.10.52

22/10.